

## **REMARKS**

### **I.     Status of Claims**

Claims 14-21 are pending in this application. Claims 1-13 were previously canceled without prejudice to and/or disclaimer of the subject matter therein. Claim 14 is the only independent claim and is currently amended.

Claims 14-21 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Kikuchi et al. (USP 6,833,210) (“Kicuchi”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II.    Specification**

In the specification has been amended to correct a minor informality on page 4, line 1. With respect to the Examiner’s suggestion to insert “FIG. 7” after “piled” on page 9, line 20, the Applicant respectfully submits that they reviewed this portion of page 9 and could not find any place where “piled” was listed. Therefore, the Applicant respectfully requests clarification of this objection and/or removal of the same.

In view of the foregoing remarks, the Applicant respectfully requests reconsideration of these objections.

### **III.   Drawings**

The drawings have been objected to by the Examiner in the Office Action Summary, but fail to point out the reason for objection in the Office Action. Applicants believe that the drawings were submitted in compliance with 37 C.F.R. §§ 1.81-1.84. Applicants respectfully request clarification of the Examiner’s objection.

### **IV.    Pending Claims**

Claim 14, the only independent claim, stands rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Kikuchi.

The Applicant respectfully submits that claim 14 is patentable over the cited references at least because it recites, *inter alia*, “...wherein the *separator is made from metal* and the back-up

is *integrally* formed in the metal separator.” (emphasis added)

In certain embodiments of the present invention, the interrupted back-up (42, 43) is formed in the separator 18. Also, the separator can be a metal separator (*See e.g.*, the descriptions from lines 23, on page 11, to line 24 on page 12, as well as line 12, on page 10).

In contrast to certain embodiments of the present invention, Kikuchi describes that support members 29A and 29B are provided to gas sealing members 6A, 7A, or support members 29C, 29D are provided to cooling surface sealing member 27 (*See e.g.*, col. 8: line 45 – col. 11: line 55). Moreover, Kikuchi describes that in the case of a carbon separator, the support member may be formed by making the separator to be thick in a part thereof (*See e.g.*, col. 14: lines 2-4). However, the Applicant respectfully submits that, in contrast to certain embodiments of the present invention, Kikuchi does not describe that the support member is *integrally* formed in the separator *made from metal*. Therefore, the Applicant respectfully submits that claim 14 does not anticipate each and every limitation of the invention of Applicant’s claim 14.

Further, as discussed in *KSR Int’l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), the Applicant respectfully submits that it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant. Obviousness cannot be sustained on mere conclusory statements. In the instant case, the Office Action does not provide a reason why a person would have been prompted to modify Kikuchi to include a support member that is *integrally* formed in the separator *made from metal*.

Therefore, the Applicant respectfully submits that, for at least these reasons, claim 14 and its dependent claims are patentable over the cited references.

**V. Conclusion**

In view of the foregoing discussion, the Applicants respectfully submit that the present application is in all aspects in allowable condition. Favorable reconsideration and early issuance of a Notice of Allowance are therefore respectfully requested.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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